

Remarks

I. Status of Claims

After the above amendments, claims 1-13, 15-20 are pending in the application. Claims 15-20 were withdrawn by the Examiner pursuant to a restriction requirement.

By this response, claims 11 and 13 are amended. Claim 1 is the only independent claim presently under consideration (following the restriction requirement).

Claims 1-13 stand rejected under 35 U.S.C. 112, first paragraph, because the specification allegedly does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate with the scope of the claims.

Claim 11 and 13 stand rejected under 35 U.S.C. 112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter.

Claims 1-13 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Hamada et al. (JP2001-357869) (hereinafter "Hamada"). Claims 1-9 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Sakai et al. (JP63-119166) (hereinafter "Sakai").

The Applicant respectfully requests reconsideration of the rejections in view of the foregoing amendments and the following remarks.

II. 35 U.S.C. § 112, first paragraph, Rejection

Claims 1-13 stand rejected under 35 U.S.C. 112, first paragraph, because the specification allegedly does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate with the scope of the claims. More specifically, the Office Action indicates that claims 1 and 2 are overly broad.

The Applicant respectfully disagrees. The Applicant respectfully submit that support for this claim language can at least be found in paragraph [0011] of the application as published which states:

[0011] In the fuel cell according to the invention, the fuel cell stack may be composed of varying types of cell blocks, each of the blocks being formed by stacking plural cells of the same type. Thus, the varying types of cell blocks, each type of which is formed by stacking the cells having a different characteristic, can be disposed at different portions in the fuel cell stack. By "type", what is meant in the context of the present invention is the

performance (or "characteristic") of the cell, for example, in terms of gas pressure losses and/or water draining. (emphasis added)

The Applicant respectfully submits that this paragraph teaches one having ordinary skill in the art how to make and/or use the invention commensurate with the scope of the claims. For example, claim one requires that at least two of the cell blocks have different characteristics, meaning they have different gas pressure loss and/or water draining characteristics. Accordingly, the Applicant respectfully requests withdrawal of this rejection.

III. 35 U.S.C. § 112, second paragraph, Rejections

Claims 11 and 13 are amended to correct any perceived ambiguity.

IV. Pending Claims are Patentable over Hamada and Sakai

Claim 1, the only independent claim presently under consideration, stands rejected under 35 U.S.C. 102(b) as allegedly being anticipated by both Hamada and Sakai.

The Applicant respectfully submits that claim 1 is patentable over the cited references at least because it recites, "...a fuel cell stack formed by stacking a plurality of cell blocks, at least two of the cell blocks having different characteristics, each cell of the cell blocks having at least one separator including a plurality of grooves that form a gas passage of the separator and a plurality of ribs that are provided between the grooves, wherein a pitch between the ribs of one cell block is different from a pitch between the ribs of another cell block." (emphasis added)

The Applicant respectfully submits that neither Hamada nor Sakai disclose a separator having ribs that are formed along a groove of a gas passage of the separator. Furthermore, neither reference discloses a pitch between the ribs of one cell unit being different from a pitch between the ribs of another cell block.

As noted herein above (and as shown in FIGS. 3A and 3B provided herein below), claim 1 requires "... a plurality of ribs (35, 36) that are provided between the grooves, wherein a pitch

between the ribs of one cell block is different from a pitch between the ribs of another cell block."

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FIG. 3A

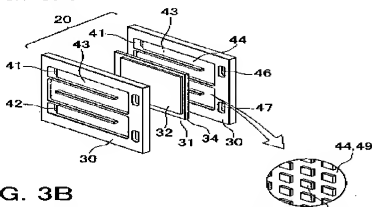
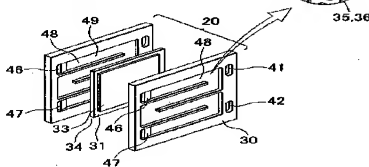


FIG. 3B



As discussed in paragraph [0027] of the application as published, the separator 30b of the cell 20b, in which the pressure loss is small, the ribs 35, 36 in the concave groove 43 and the concave groove 48 are formed to be slightly smaller than those in the separator 30 of the normal cell 20. In other words, a cross sectional area of each of the ribs 35, 36 is formed to be smaller such that a pitch between the ribs 35, 36 is larger. Since the ribs 35, 36 in the cell 20b are formed in this manner, substantial spaces of gas paths, through which the gases actually pass, are increased in the oxidizing gas passage 44 and the fuel gas passage 49, whereby the pressure loss becomes smaller than that in the cell 20.

Both the “Claim Rejections -35 USC § 102” and “Response to Arguments” sections of the Office Action do not appear to address this claim language. For example, when describing both Hamada and Sakai, the Office Action fails to mention where “ribs” and “pitch” can be found in either reference, such as by providing a reference numeral and/or cited portion of the abstract, specification, claims, and/or drawings. Therefore, the Applicant respectfully submits that it is unclear how either reference anticipates Applicant’s claim 1.

Further, the Applicant respectfully submits that since several limitations have not been addressed, the finality of the of the September 6, 2007 Office Action should be removed. Pursuant to the requirement of section 706.07 of the MPEP, the Applicant is entitled to a full hearing and that issues between the Applicant and Examiner should be developed before an appeal. Therefore, the Applicant respectfully requests that withdrawal of the finality of the rejection is in order.

Further, lacking any teaching and/or suggestion of each and every limitation of Applicant’s claims, the Applicant respectfully submits that claim 1, as well as its dependent claims, are patentable over the cited references.

V. Conclusion

In light of the above discussion, the Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

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